IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 455 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KAGDI MOHANLAL GIRDHARLAL & SONS

Versus

R R VIRADIA - KARTA OF HUF RAMESHKUMAR R VIRADIA

Appearance:

1. Civil Revision Application No. 455 of 2002

MR BIPIN I MEHTA for Petitioner No. 1-1/3

MR KETAN A DAVE for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 05/05/2004

ORAL JUDGEMENT

The petitioners are the original defendants of Summary Suit No.35/1999. The said suit is filed by the present respondents. In the said suit, the trial Court

has granted leave to defend by asking the defendants to deposit Rs.2,00,000/- (Rupees Two Lacs). The said conditional leave granted by the trial Court is impugned in this revision application.

2) In view of the amendment in Section 115 of C.P.C., this revision is not maintainable. Realising this difficulty, Mr.Mehta, learned advocate for the petitioner wants to withdraw this Civil Revision Application with a view to file a Special Civil Application under Article 227 of the Constitution of India, however, Mr.Mehta submitted that since he is not in touch with his client, he does not know whether his clients would like to file Special Civil Application or not.

3) Since Mr.Mehta wants to withdraw this Civil Revision Application but he is not in a position to take instruction in this behalf from his clients, interim relief granted earlier by this Court is ordered to be extended upto 30th June, 2004.

4) The petitioners are permitted to withdraw this Civil Revision Application with a liberty to file Special Civil Application under Article 227 of the Constitution of India, challenging the impugned order. Accordingly, this Civil Revision Application is disposed of as withdrawn. Rule is discharged. No costs. Interim relief is ordered to be extended upto 30th June, 2004. It is clarified that this Court has not expressed any opinion on the merits of the matter.

(P.B.Majmudar,J.)

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